PRE-APPEAL BRIEF REQUEST FOR REVIEW
- Expedited Examining Procedure -
Examining Group 1734

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Thomas Laney, et al.

THERMAL-DYE-TRANSFER LABEL CAPABLE OF REPRODUCING FLESH TONES

Serial No.: 10,602,839

Filed: June 24, 2003

Group Art Unit: 1734
Examiner: George R. Koch

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Karen J. Wacenske Karen J. Wacenske
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DATE: 12-23-05

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request pre-appeal brief review of the Final Office Action dated 25 August 2005, and the Advisory Action dated 29 November 2005, in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. No amendments having been filed after the final Office Action, Applicants' presume the claims to be as filed in the response filed 11 February 2005.

Claims 1-14, 19-26, 33-36, and 38-44 are rejected under 35 U.S.C. 103(a) over Weber (US 5,288,548) and Freedman (US Patent 5,372,669). Claims 11,12,15-18, 27-37, 42, and 44 are rejected under 35 U.S.C. 103(a) over Weber and Freedman as applied to claim 1 and 11 above, and further view of Shirai (US Patent 6,153,558), Harrison (US 5,399,218), Oshima (US 6,162,517), or a combination thereof. Applicants traverse each of the rejections for at least the following reasons.

Arguments with respect to Weber

In the Advisory Action, the Patent Office asserts Weber: 1) "discloses coextruding of the first and second melt (column 2 lines 27-56);" 2) "Weber discloses

the coating of the blend of A and B;" and 3) the "coating of the blend of A and B is not excluded by the language of [Applicants'] independent claims." Applicants do not dispute any of the above. Rather, Applicants submit the argument put forth by the Patent Office exemplify the failure of Weber to teach Applicants' claimed invention comprising "***co-extruding a*** first melt for a polymeric ***image-receiving layer*** with one of more other melts for forming a single-layer or multiple-layer pragmatic polymer-sheet," as claimed in independent claims 1, 11, and 39.

Weber discloses co-extrusion of a first and second melt forming a ***base or core layer*** for a label stock (see Weber, column 2, lines 9-56), as explained in Applicants' responses filed 7 June 2005, and 2 November 2005. It is clear from the abstract of Weber; column 1, lines 49-65; column 3, lines 20-28; column 4, lines 35-68; and claim 1, that the solution-coated blend of A and B on the base layer is the ***printable*** material layer, or image-receiving layer, of the face stock. For example, column 3, lines 20-30, reads:

> The essence of the present invention involves employing a particular polymeric blend that results in a layer having excellent receptivity to impact and thermal printing methods. The resulting surface can be printed with high speed equipment that is present in the industry, i.e., 400 lines per minute. The resulting coating has excellent ink adhesion and smear resistance both dry and in the presence of water. This ensures that bar coding is not jeopardized by ambient conditions.
>
> This polymeric blend is a combination of a mixture of (A) and (B). . . .

It is stated at column 4, lines 20-22, that the blend of A and B is applied as a water based coating. Thus, Weber does not disclose or suggest ***co-extruding*** a first melt for a polymeric ***image-receiving layer*** with one of more other melts for forming a single-layer or multiple-layer pragmatic polymer-sheet. The co-extruded layers of Weber form the base or core of the label facestock, and the printable layer of A and B is solution coated on the base. For at least the above reasons, Weber does not teach, disclose, or suggest all the features of the claimed invention.

Arguments with respect to Freedman

It is admitted in the Advisory Action that Freedman is relied on for methods of making voided layers. Freedman does not overcome the deficiencies of Weber, as

admitted in the Advisory Action, and as exemplified in Applicants' responses filed 7 June 2005, and 2 November 2005.

In particular, microvoided materials are only mentioned with reference to ***liner stock***, at col. 2, line 47, through col. 5, line 8, and shown in Figs. 1 and 2 of Freedman. It would be obvious to one skilled in the art of printing that a rough printing surface may create a poor printed material. If the microvoided material of the liner were substituted in the face stock, the face stock would have a roughened surface, hampering printing. The purpose of Freedman's use of microvoiding agents, to roughen a surface, teaches away from use in label stock for printing, which desirably has a smooth surface for image reception.

The microvoided layer of Applicants' invention, as set forth in Applicants' specification at page 20, lines 17-20, provides compliance, resulting in better contact, and higher dye transfer efficiencies during printing. As set forth above, Freedman teaches away from this result, and does not teach, disclose, or suggest all the features of the claimed invention, and further does not overcome the deficiencies of Weber.

Arguments with Respect to Shirai

Shirai does not overcome the deficiencies of Weber and Freedman, alone or in any combination with Harrison and Oshima, discussed below. Shirai is directed to a thermal transfer image-receiving sheet for labels. As shown in Fig. 1 and described at col. 5, lines 2-4, the sheet comprises a sticker portion **2** and a release sheet portion **3**. The sticker portion **2** includes a receptor layer **4**, an optional intermediate layer **5**, and a substrate **6**, wherein the substrate layer can be foamed. Foaming is discussed at col. 9, lines 26-32. As known to one skilled in the art, a foam has air or gas pockets, but does not include a particulate material, that is, a solid void-initiating agent. It is not disclosed or suggested that the substrate can be voided or that either the substrate or the receptor layer can be extruded. *See* col. 9, line 10 - col. 10, line 20.

Arguments with Respect to Harrison

Harrison does not overcome the deficiencies of Weber and Freedman, alone or in combination with any one or more of Shirai and Oshima (discussed below). Harrison discloses a thermal receiver comprising a co-extruded dye image-receiving layer and thermoplastic resin with void initiating particles laminated to a support.

There is no disclosure or suggestion of coating the co-extruded layers with an adhesive or forming a peelable adhesive label.

Arguments with Respect to Oshima

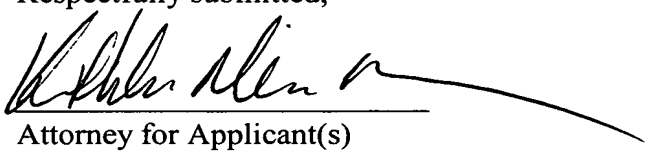
Oshima does not overcome the deficiencies of Weber and Freedman, alone or in combination with any one or more of Shirai and Harrison. Oshima is directed to an image receiving sheet for thermal transfer printing having an adhesive sheet portion and a release sheet. The adhesive sheet portion can include a foamed layer (col. 4, lines 55-61), but does not teach or disclose a microvoided layer. There is no teaching or suggestion that either the foamed layer or the dye-receiving layer (col. 7, lines 15-23) can be extruded.

Conclusion

For at least the above reasons, none of the references, alone or in any combination, disclose or suggest all the features of the claimed invention. As set forth above, the final rejection is clearly in error, a prima facie case of obviousness not having been established for any combination of applied references.

A prompt and favorable action in response to this request is earnestly solicited.

Respectfully submitted,



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